



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-009]

Calcium Hypochlorite from the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Katie Marksberry, Office V, AD/CVD

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SUPPLEMENTARY INFORMATION:

The Petition

On December 18, 2013, the Department of Commerce (the “Department”) received a countervailing duty (“CVD”) petition concerning imports of calcium hypochlorite from the People’s Republic of China (“PRC”), filed in proper form by Arch Chemicals, Inc. (“Petitioner”), a domestic producer of calcium hypochlorite.<sup>1</sup> The CVD Petition was accompanied by an antidumping duty (“AD”) petition concerning imports of calcium hypochlorite from the PRC. On December 19, 2013, and December 24, 2013, the Department

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<sup>1</sup> See “Petition for the Imposition of Antidumping and Countervailing Duties on Calcium Hypochlorite from the People’s Republic of China, dated December 18, 2013 (hereafter referred to as the “Petition”).

requested additional information and clarification of certain areas of the Petition, and on December 23, 2013, and December 30, 2013, Petitioner filed a response to each request.<sup>2</sup>

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the “Act”), Petitioner alleges that producers/exporters of calcium hypochlorite in the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, or threaten material injury to, an industry in the United States.

The Department finds that Petitioner filed this Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that Petitioner has demonstrated sufficient industry support with respect to the initiation of the CVD investigation that Petitioner is requesting.<sup>3</sup>

#### Period of Investigation

The period of investigation (“POI”) is January 1, 2012 through December 31, 2012, in accordance with 19 CFR 351.204(b)(2).

#### Scope of the Investigation

The product covered by this investigation is calcium hypochlorite from the PRC. For a full description of the scope of the investigation, please see the “Scope of Investigation” in the appendix to this notice.

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<sup>2</sup> See Petitioner’s December 23, 2013, filing titled, “Calcium Hypochlorite from the People’s Republic of China: Response to Supplemental Questions”; see also Petitioner’s December 30, 2013, filing titled, “Petition for the Imposition of Antidumping Duties on Imports of Calcium Hypochlorite from the People’s Republic of China: Response to General Supplemental Questions” (“General Issues Supplement”).

<sup>3</sup> See “Determination of Industry Support for the Petition” section, below.

### Comments on the Scope of the Investigation

During our review of the Petition, we solicited information from Petitioner to ensure that the proposed scope language is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations<sup>4</sup>, we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by January 27, 2014, which is 20 calendar days from the signature date of this notice. All comments must be filed on the record of the CVD investigation, as well as the concurrent AD investigation.

### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement & Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. on the due date. Documents excepted from the electronic submission requirements must be filed manually (i.e., in paper form) with the Enforcement & Compliance's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline established by the Department.<sup>5</sup>

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<sup>4</sup> See Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27323 (May 19, 1997).

<sup>5</sup> 19 CFR 351.303(b)(1). Information on help using IA ACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

## Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department held consultations with the government of the PRC (hereinafter, the “GOC”) with respect to the Petition on January 3, 2014.<sup>6</sup>

## Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department

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<sup>6</sup> See “Countervailing Duty Petition on Calcium Hypochlorite from the People’s Republic of China: Consultations with the Government of the People’s Republic of China,” dated January 3, 2014.

and the ITC must apply the same statutory definition regarding the domestic like product,<sup>7</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>8</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that calcium hypochlorite, as defined in the scope of the investigation, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>9</sup>

In determining whether Petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of Investigation” section above. To establish industry support, Petitioner provided its production of the domestic like product in 2012, and compared this to the

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<sup>7</sup> See section 771(10) of the Act.

<sup>8</sup> See USEC, Inc. v. United States, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing Algoma Steel Corp., Ltd. v. United States, 688 F. Supp. 639, 644 (CIT 1988), aff'd 865 F.2d 240 (Fed. Cir. 1989)).

<sup>9</sup> See Countervailing Duty Investigation Initiation Checklist: Calcium Hypochlorite from the People's Republic of China (“CVD Initiation Checklist”), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Calcium Hypochlorite from the People's Republic of China (“Attachment II”). This checklist is dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit (“CRU”), Room 7046 of the main Department of Commerce building.

estimated total production of the domestic like product for the entire domestic industry.<sup>10</sup>

Petitioner estimated total 2012 production of the domestic like product using its own production data and knowledge of the industry.<sup>11</sup> We have relied upon data Petitioner provided for purposes of measuring industry support.<sup>12</sup>

Based on information provided in the Petition, supplemental submission, and other information readily available to the Department, we determine that Petitioner has met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<sup>13</sup> Based on information provided in the Petition, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.<sup>14</sup>

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the countervailing duty investigation that it is requesting the Department initiate.<sup>15</sup>

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<sup>10</sup> See Volume I of the Petition, at 3-4 and Exhibit GEN-2.

<sup>11</sup> Id.

<sup>12</sup> See CVD Initiation Checklist, at Attachment II.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id.

### Injury Test

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

### Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>16</sup>

Petitioner contends that the industry’s injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; reduced production and capacity utilization; decline in employment variables; and decline in financial performance.<sup>17</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>18</sup>

### Initiation of CVD Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

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<sup>16</sup> See Volume I of the Petition, at 18.

<sup>17</sup> See Volume I of the Petition, at 17-30 and Exhibits INJ-1 through INJ-8.

<sup>18</sup> See Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Calcium Hypochlorite from the People’s Republic of China.

The Department has examined the Petition on calcium hypochlorite from the PRC and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether producers/exporters of calcium hypochlorite in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see the CVD Initiation Checklist which accompanies this notice.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of all 21 alleged programs. For a full discussion of the basis for our decision to initiate on each program, see the CVD Initiation Checklist.

#### Respondent Selection

For this investigation, the Department intends to select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports during the POI (i.e., calendar year 2012) under the following Harmonized Tariff Schedule of the United States number: 2828.10.0000. We intend to release the CBP data under Administrative Protective Order (“APO”) to all parties with access to information protected by APO within five days of the announcement of the initiation of this investigation. Interested parties may submit comments regarding the CBP data and respondent selection within seven calendar days of release of this data. We intend to make our decision regarding respondent selection within 20 days of publication of this Federal Register notice.

#### Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the representatives of the GOC. Because of the particularly large number of producers/exporters identified in the Petition, the Department



considers the service of the public version of the petition to the foreign producers/exporters satisfied by the provision of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

#### ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

#### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of subsidized calcium hypochlorite from the PRC materially injure, or threaten material injury to, a U.S. industry.<sup>19</sup> A negative ITC determination will result in the investigation being terminated.<sup>20</sup> Otherwise, the investigation will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

On April 10, 2013, the Department published Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule, 78 FR 21246 (April 10, 2013), which modified two regulations related to AD and CVD proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)-(iv). The final rule

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<sup>19</sup> See section 703(a)(2) of the Act.

<sup>20</sup> See section 703(a)(1) of the Act.

requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all proceeding segments initiated on or after May 10, 2013, and thus are applicable to this investigation. Please review the final rule, available at <http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information for this investigation.

#### Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in AD and CVD proceedings.<sup>21</sup> The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under section 19 CFR 351.408(c), or to measure the adequacy of remuneration under section 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning

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<sup>21</sup> See Extension of Time Limits; Final Rule, 78 FR 57790 (September 20, 2013).

CBP data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Review Extension of Time Limits; Final Rule, available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this segment.

#### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>22</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD or CVD investigations or proceedings initiated on or after August 16, 2013, including this investigation.<sup>23</sup> The formats for the revised certifications are provided at the end of the Final Rule. The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

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<sup>22</sup> See section 782(b) of the Act.

<sup>23</sup> See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings, 78 FR 42678 (July 17, 2013) (“Final Rule”).

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at <http://enforcement.trade.gov/apo/index.html>.

This notice is issued and published pursuant to section 777(i) of the Act.

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Paul Piquado,  
Assistant Secretary  
for Enforcement & Compliance.

January 7, 2014.  
Date

## **Appendix I**

### **Scope of the Investigation**

The product covered by this investigation is calcium hypochlorite, regardless of form (e.g., powder, tablet (compressed), crystalline (granular), or in liquid solution), whether or not blended with other materials, containing at least 10% available chlorine measured by actual weight. The scope also includes bleaching powder and hemibasic calcium hypochlorite.

Calcium hypochlorite has the general chemical formulation  $\text{Ca}(\text{OCl})_2$ , but may also be sold in a more dilute form as bleaching powder with the chemical formulation,  $\text{Ca}(\text{OCl})_2 \cdot \text{CaCl}_2 \cdot \text{Ca}(\text{OH})_2 \cdot 2\text{H}_2\text{O}$  or hemibasic calcium hypochlorite with the chemical formula of  $2\text{Ca}(\text{OCl})_2 \cdot \text{Ca}(\text{OH})_2$  or  $\text{Ca}(\text{OCl})_2 \cdot 0.5\text{Ca}(\text{OH})_2$ . Calcium hypochlorite has a Chemical Abstract Service (“CAS”) registry number of 7778-54-3, and a U.S. Environmental Protection Agency (“EPA”) Pesticide Code (“PC”) Number of 014701. The subject calcium hypochlorite has an International Maritime Dangerous Goods (“IMDG”) code of Class 5.1 UN 1748, 2880, or 2208 or Class 5.1/8 UN 3485, 3486, or 3487.

Calcium hypochlorite is currently classifiable under the subheading 2828.10.0000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). The subheading covers commercial calcium hypochlorite and other calcium hypochlorite. When tableted or blended with other materials, calcium hypochlorite may be entered under other tariff classifications, such as 3808.94.5000 and 3808.99.9500, which cover disinfectants and similar products. While the HTSUS subheadings, the CAS registry number, the U.S. EPA PC number, and the IMDG codes are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.